

Message Text

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ACTION ARA-10

INFO OCT-01 ISO-00 L-03 SP-02 CIAE-00 INR-07 NSAE-00 AID-05

PER-01 FS-01 ABF-01 AGR-05 DODE-00 PC-01 USIA-06

TRSE-00 /043 W

----- 000875

R 122106Z MAR 76

FM AMEMBASSY QUITO

TO SECSTATE WASHDC 9349

INFO AMEMBASSY BOGOTA

LIMITED OFFICIAL USE SECTION 1 OF 2 QUITO 1941

DEPARTMENT PLEASE PASS TO AID

BOGOTA FOR USAID REGIONAL LEGAL ADVISOR

E.O. 11652: N/A

TAGS: APER, AFSP, EC

SUBJECT: LOCAL PERSONNEL: USG PARTICIPATION IN GOE SOCIAL SECURITY
SYSTEM

1. EMBOFFS MET AGAIN WITH FONMIN REGARDING DRAFT AGREEMENT. FOLLOWING IS TEXT OF AGREEMENT WHICH WAS APPROVED BY FONMIN FOR SUBMISSION TO IESS. NEXT STEP IS CONCURRENCE BY IESS SUPREME COUNCIL WHICH WOULD THEN COMPLETE ALL STEPS NEEDED FOR FINALIZING AGREEMENT. WE ESTIMATE THIS ACTION WILL TAKE ABOUT TWO WEEKS.

2. TEXT OF AGREEMENT:

QUOTE

THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE
GOVERNMENT OF ECUADOR:
CONSIDERING THAT VOLUNTARY PARTICIPATION BY THE UNITED
STATES IN THE ECUADOREAN SOCIAL SECURITY INSTITUTE (HEREIN-
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AFTER REFERRED TO AS "THE IESS") IS IN AGREEMENT, WITHIN THE

LIMITS MUTALLY AGREED UPON, WITH THE LAWS OF ECUADOR AND THE LAWS OF THE UNITED STATES;
DESIRING TO NEGOTIATE AN AGREEMENT TO IMPLEMENT SUCH PARTICIPATION BY THE UNITED STATES IN FAVOR OF CERTAIN EMPLOYEES OF THE GOVERNMENT OF THE UNITED STATES IN ECUADOR, HAVE AGREED AS FOLLOWS:
ARTICLE I. PARTICIPATION

1. WITHOUT DEROGATING FROM THE INDEPENDENCE AND SOVEREIGNTY OF THE TWO GOVERNMENTS, PARTICIPATION OF THE GOVERNMENT OF THE UNITED STATES IN THE IESS WILL BE IN ACCORDANCE WITH PERTINENT ARTICLES OF ECUADOREAN SOCIAL SECURITY LAWS CURRENTLY IN FORCE OR THAT MAY HEREAFTER BE ENACTED FOR THE FOLLOWING COVERAGES: OLD AGE, DISABILITY AND DEATH; SICKNESS AND MATERNITY; LABOR RISKS, FUNERAL COOPERATIVE ASSOCIATION AND CORRESPONDING SUBSIDIES FOR TEMPORARY DISABILITY AND UNEMPLOYMENT.

2. THIS AGREEMENT DOES NOT ALTER IN ANY WAY THE PRIVILEGES AND IMMUNITIES OF THE CONTRACTING PARTIES WHICH DERIVE FROM GENERALLY ACCEPTED JURIDICAL PRINCIPLES AND INTERNATIONAL PRACTICES, AND FROM TREATIES AND AGREEMENTS IN FORCE BETWEEN THEM. THIS AGREEMENT SHALL NOT SUBJECT THE GOVERNMENT OF THE UNITED STATES, ITS DEPARTMENT OR ESTABLISHMENTS, ITS OFFICERS OR EMPLOYEES WHO ARE NOT INCLUDED IN THE GROUP IDENTIFIED IN ARTICLE II HEREOF, TO ANY CIVIL, ADMINISTRATIVE OR CRIMINAL ACTION CONTEMPLATED BY THE LEGISLATION GOVERNING THE ECUADOREAN SOCIAL SECURITY SYSTEM OR ANY OTHER LAWS OR REGULATIONS.

ARTILCE II. APPLICABILITY

1. EMPLOYEES OF THE GOVERNMENT OF THE UNITED STATES IN ECUADOR WHO ARE NOT NATIONALS OF THE UNITED STATES, SHALL RECEIVE TO THE EXTENT ESTABLISHED BY THE ECUADOREAN LAW AND THIS AGREEMENT, BENEFITS EXTENDED BY IESS.

2. EMPLOYEES TO WHOM THIS AGREEMENT APPLIES AS IDENTIFIED IN PARAGRAPH 1 OF THIS ARTICLE WHO ARE HIRED ON OR AFTER THE EFFECTIVE DATE OF THIS AGREEMENT, WILL BE AFFILIATED WITH THE IESS FOR COVERAGE BY ALL THE INSURANCE BENEFITS SET FORTH IN LIMITED OFFICIAL USE

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ARTICLE I, PARAGRAPH 1.

3. EMPLOYEES TO WHOM THIS AGREEMENT APPLIES AS IDENTIFIED IN PARAGRAPH 1 OF THIS ARTICLE WHO WERE HIRED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT, AND WHO ARE NOT AFFILIATED WITH THE UNITED STATES CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM ON THE EFFECTIVE DATE OF THIS AGREEMENT, SHALL BE AFFILIATED WITH IESS FOR COVERAGE BY THE INSURANCE BENEFITS SET

FORTH IN ARTICLE I, PARAGRAPH 1.

4. EMPLOYEES TO WHOM THIS AGREEMENT APPLIES AS IDENTIFIED IN PARAGRAPH 1 OF THIS ARTICLE WHO WERE HIRED PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT AND WHO ARE AFFILIATED WITH THE UNITED STATES CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM ON THE EFFECTIVE DATE OF THIS AGREEMENT, SHALL HAVE THE OPTION OF CONTINUING THEIR AFFILIATION WITH THE UNITED STATES CIVIL SERVICE RETIREMENT SYSTEM IN WHICH CASE THEY WILL NOT BE ENTITLED TO DISABILITY, OLD AGE AND DEATH BENEFITS EXTENDED BY THE IESS. HOWEVER, THEY WILL BE AFFILIATED WITH THE IESS FOR ALL OTHER COVERAGES. IN RECOGNITION OF THE FACT THAT SUCH EMPLOYEES ARE NOT ENTITLED TO THE BENEFITS OF OLD AGE, DISABILITY AND DEATH INSURANCE EXTENDED BY THE IESS, THE GOVERNMENT OF ECUADOR WILL ALLOW AN ADEQUATE REDUCTION IN THE EMPLOYER'S AND EMPLOYEES' CONTRIBUTIONS PERTAINING TO THOSE BENEFITS.

5. THOSE EMPLOYEES WHO TERMINATE THEIR AFFILIATION WITH THE UNITED STATES CIVIL SERVICE RETIREMENT SYSTEM WILL BE AFFILIATED WITH THE IESS FOR ALL COVERAGES, AND, FOR THIS PURPOSE, THEIR PREVIOUS PERIOD OF EMPLOYMENT MAY BE RECOGNIZED UPON PAYMENT, BY SUCH PARTICIPANTS, OF THE PROPER ACTUARIAL AMOUNTS.

THOSE EMPLOYEES WHO TERMINATE THEIR AFFILIATION WITH THE UNITED STATES CIVIL SERVICE RETIREMENT SYSTEM WILL HAVE THE OPTION TO WITHDRAW THEIR CONTRIBUTIONS TO THAT SYSTEM. THOSE EMPLOYEES WHO WITHDRAW SUCH CONTRIBUTIONS WILL FORFEIT THEIR RIGHT TO THE BENEFITS OF THE RETIREMENTS SYSTEM OF THE UNITED STATES GOVERNMENT. THOSE EMPLOYEES WHO DO NOT WITHDRAW THEIR CONTRIBUTIONS TO THE UNITED STATES CIVIL SERVICE RETIREMENT SYSTEM MAY BE ENTITLED TO RETIREMENT BENEFITS FROM THE UNITED STATES GOVERNMENT ON THE BASIS OF PREVIOUS EMPLOYMENT WITH THE UNITED STATES GOVERNMENT; PROVIDED, HOWEVER, THAT OTHER LIMITED OFFICIAL USE

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PENSION ELIGIBILITY REQUIREMENTS ARE MET.

6. IN VIEW OF THE STIPULATIONS IN PARAGRAPH 5 ABOVE, THE GOVERNMENT OF ECUADOR EXEMPTS THE UNITED STATES GOVERNMENT FROM PAYMENT OF EMPLOYER'S CONTRIBUTIONS TO THE IESS PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT AND PERTAINING TO ECUADOREAN AND NON-U.S. FOREIGN NATIONALS WHO ARE CURRENTLY IN THE EMPLOY OF THE UNITED STATES GOVERNMENT IN ECUADOR.

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ACTION ARA-10

INFO OCT-01 ISO-00 SP-02 CIAE-00 INR-07 NSAE-00 AID-05

PER-01 FS-01 ABF-01 AGR-05 DODE-00 PC-01 USIA-06

TRSE-00 L-03 /043 W

----- 000821

R 122106Z MAR 76

FM AMEMBASSY QUITO

TO SECSTATE WASHDC 9350

INFO AMEMBASSY BOGOTA

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ARTICLE III. ADMINISTRATION

1. SUBJECT TO THE PROVISIONS OF ARTICLE I OF THIS AGREEMENT, THE UNITED STATES GOVERNMENT WILL TAKE THE FOLLOWING ACTIONS WITH RESPECT TO ECUADOREAN SOCIAL SECURITY LAWS AS THEY RELATE TO ITS EMPLOYEES WHO ARE IDENTIFIED IN ARTICLE II HEREOF;

A. PAY ITS CONTRIBUTIONS AS AN EMPLOYER IN THE MANNER AND FOR SUCH PERIODS AS PRESCRIBED.

B. WITHHOLD SUCH AMOUNTS FROM ITS EMPLOYEES' SALARIES AS MAY BE REQUIRED.

C. REMIT SUCH WITHHOLDINGS TO THE IESS WITHIN THIRTY (30) DAYS FOLLOWING THE END OF THE CORRESPONDING MONTH.

D. FILE STATEMENTS IN SUCH FORMS AND IN SUCH MANNER AS ARE PRESCRIBED BY THE GOVERNMENT OF ECUADOR.

E. FURNISH, UPON REQUEST, INFORMATION ON THE ADMINISTRATION OF THIS AGREEMENT.

F. PERFORM SELF-AUDITS AND SELF-INSPECTIONS OF ITS ACCOUNTS AND FINANCIAL RECORDS IN LIEU OF AUDITS AND INSPECTION REQUIRED BY THE LAW OF ECUADOR FOR PRIVATE EMPLOYERS.

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2. IF THE UNITED STATES IS ENTITLED TO A REFUND BECAUSE OF AN OVERPAYMENT OF ITS CONTRIBUTIONS HEREUNDER OR ANY OTHER REASON, SUCH AMOUNTS WILL BE APPLIED AS A REDUCTION OF FUTURE OBLIGATIONS PAYABLE BY THE UNITED STATES, IN ACCORDANCE WITH PARAGRAPH 1 (A) OF THIS ARTICLE. IN THE EVENT OF TERMINATION OF THIS AGREEMENT, ANY SUMS MAINTAINED IN FAVOR OF THE UNITED STATES HEREUNDER SHALL BE PROMPTLY REFUNDED.

3. THE UNITED STATES WILL NOT BE SUBJECT TO ANY PENALTIES OR FINES, AND NO ENCUMBRANCES OR LIENS WILL BE LAID ON ITS PROPERTY, AS A RESULT OF ITS AGREEMENT TO ASSUME THE OBLIGATIONS SET FORTH IN PARAGRAPH 1 HEREOF.

ARTILCE IV. EFFECTIVE DATE AND SUBSEQUENT AMENDMENTS

1. THIS AGREEMENT WILL GO INTO FORCE EFFECTIVE ON THE FIRST DAY OF -----, 197---, AND, SUBJECT TO COMPLIANCE WITH THE AGREEMENTS AND COVENANTS SET FORTH HEREIN, WILL REMAIN IN FULL FORCE AND EFFECT UNTIL TERMINATED IN ACCORDANCE WITH ARTICLE V OF THIS AGREEMENT.

2. THIS AGREEMENT MAY BE AMENDED AT ANY TIME BY MUTUAL AGREEMENT BETWEEN THE CONTRACTING PARTIES.

ARTICLE V. TERMINATION

EITHER PARTY MAY TERMINATE THIS AGREEMENT BY GIVING NOTICE IN WRITING TO THE OTHER PARTY SIX MONTHS IN ADVANCE.

UNQUOTE

3. WOULD APPRECIATE DEPARTMENT'S PROMPT REVIEW AND APPROVAL OF AGREEMENT.
BREWSTER

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Message Attributes

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Disposition Approved on Date:
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